IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	)	**Case No. 3:15-mj-00316-BK-1**
Plaintiff,	)	
	)	Dallas, Texas
v.	)	May 15, 2015
	)	9:30 a.m.
BILAL ABOOD,	)	
	)	DETENTION HEARING
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RENEE HARRIS TOLIVER,
UNITED STATES MAGISTRATE JUDGE.

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DALLAS, TEXAS - MAY 15, 2015 - 9:37 A.M.

THE COURT: The Court calls Case No. 3:15-mj-316-BK, United States of America v. Bilal Abood. Is the Government ready to proceed?

MR. PENLEY: We're ready, Your Honor.

THE COURT: Is Defense?

MR. OGAN: Ready, Your Honor.

THE COURT: Okay. Mr. Ogan and Mr. Hawkins, have you seen the motion *in limine* that was filed this morning?

MR. OGAN: Yes, I have.

THE COURT: Okay. Do you have any objection to that?

MR. OGAN: No, I don't.

THE COURT: Okay. I'm going to grant the motion *in limine* then.

MR. PENLEY: Thank you, Your Honor.

THE COURT: You may call your first witness, Mr. Penley.

MR. PENLEY: Thank you. Your Honor, we'd call Agent John Brown of the FBI.

THE CLERK: Raise your right hand, please.

(The witness is sworn.)

THE CLERK: Have a seat, please.

MR. PENLEY: May I proceed, Your Honor?

THE COURT: Yes, you may.

JOHN BROWN, GOVERNMENT'S WITNESS, SWORN

DIRECT EXAMINATION

BY MR. PENLEY:

Q Agent, would you state your name for the record?

A John Brown.

Q And how are you employed?

A I'm employed by the Federal Bureau of Investigation.

Q Are you a special agent?

A I am.

Q How long have you been employed as a special agent with the FBI?

A For just over two years.

Q And do you work here in Dallas?

A I do.

Q What's your assignment at the FBI in Dallas?

A I'm on the Joint Terrorism Task Force.

Q All right. And are you testifying in that capacity this morning?

A I am.

Q And you understand this is a probable cause and detention hearing?

A Yes, sir.

Q And are you familiar with an investigation of a gentleman by the name of Bilal Abood?

A I am.

Q All right. Did the FBI have occasion to encounter Mr.

Abood in March of 2013?
A They did, at Dallas/Fort Worth International Airport.
Q Under what circumstances?
A Mr. Abood was attempting to fly and was not allowed to.
Q All right. Did he say where he was attempting to fly?
A He told the case agents at the time that he was flying to Iraq to visit family.
Q All right. Did the FBI have occasion to interview him again shortly thereafter, approximately a week later?
A They did.
Q And what did he say at that time?
A At that time he told the case agents that his true intent was to travel to Syria to fight the regime of Bashar al-Assad, the president of Syria.
Q Okay. So he was -- this time he told a different story; is that correct?
A That's correct.
Q And he said he wanted to go fight the Assad regime in Syria?
A Yes, sir.
Q All right. And then in that same month, April of 2013, did Mr. Abood abide by the FBI's advice not to go to Syria or did he do something different?
A He did something different. He traveled to Mexico and flew overseas from there.

Q All right. Did Mr. Abood ultimately return to the United States in late summer or early fall of 2013?
A He did.
Q And at that time was he interviewed by the FBI when he returned to the States?
A He was.
Q Did he make any statements about what he had done while he was overseas?
A He told the case agents that he traveled to Syria -- specifically, to the Deir ez-Zor region, --
Q All right.
A -- which we know to have been under the control of the al-Nusra Front.
Q All right. Let me stop you right there.
A Yes, sir.
Q Is the al-Nusra Front a designated terror organization by the United States Government?
A Yes. Yes, it is, and it was at the time that he traveled there.
Q All right. So in Deir ez-Zor, the region controlled by the al-Nusra Front, did he say that he joined up with an organization that was engaged in the Syrian civil war?
A That's correct. He told agents at the time that he went -- joined or went, excuse me, went to a Free Syrian Army safe house there.

Q Okay.
A And he also told them that in that region the Free Syrian Army was working with the al-Nusra Front in collaborative attacks in that region.
Q Let me ask you another question about the al-Nusra Front, a designated terror organization. Is that affiliated in any way, or was it at the time, with Al-Qaeda?
A Yes, it was considered an Al-Qaeda affiliate.
Q Okay. And did Mr. Abood make any other statements at that time upon his return to the United States, other than --
A I'm sorry?
Q So he claimed, even though he was in a region controlled by the al-Nusra Front, --
A Right.
Q -- he was telling the FBI that he actually was with --
A He was with the Free Syrian Army.
Q -- the Free Syrian Army, which is a different group?
A Correct.
Q Okay. And did Mr. Abood indicate that he knew that the al-Nusra Front was designated as a terrorist organization by the U.S. Government?
A Yes, he knew at the time that it was.
Q Okay. And what did he say that he did while he was in Syria? You said he claimed that he joined the Free Syrian Army, that he was at a safe house?

A Right.
Q And did he admit to being involved in the fighting in the Syrian civil war?
A No, he did not.
Q Okay. Was there anything else that he said at that time that was significant to the FBI at that point in the investigation?
A (no immediate response)
Q So, basically, he claimed not to be involved with the al-Nusra Front; is that fair?
A Oh, correct, yes.
Q Okay. All right.
A He said that he was with the Free Syrian Army.
Q Let me move you forward in time now. Let's go to early 2014.
A Okay.
Q Let me direct your attention to that time period. Was the FBI initiating contact with Mr. Abood in early 2014 or was Mr. Abood trying to talk to the FBI and initiating contact with the FBI?
A The FBI did not initiate contact with Mr. Abood for quite some time. Mr. Abood then reached out to FBI case agents requesting their support to facilitate his removal from the No-Fly List.
Q All right. And what did the FBI tell him he would have to

do in order to get their assistance?
A They told him he would have to submit to a polygraph examination.
Q Did he do that?
A He did.
Q And approximately when did that polygraph exam occur?
A I don't recall the exact date.
Q All right. Was that sometime in the spring of 2014?
A Yes, it was --
Q Does that refresh your memory?
A Yes, sir, it was in the spring.
Q All right. Did he pass the polygraph exam?
A He did not. He was asked if he supported the al-Nusra Front. He responded, no, he did not, and the polygraph examination detected deception.
Q Okay. And was he also asked whether he had ever provided --
MR. OGAN: Your Honor, I didn't anticipate that question and answer, but I would object to testimony regarding the polygraph as there's been no showing that they're reliable.
THE COURT: Okay. Is that offered for the reliability or the truth of what it indicated?
MR. PENLEY: No, --
THE COURT: I didn't get that impression.
MR. PENLEY: No, Your Honor, it's not. It's really

being offered to show the nature of the interaction between the FBI and Mr. Abood and why the FBI continued its investigation and why he was not removed from the No-Fly List.

THE COURT: For those -- for that limited purpose, I will allow it.

MR. PENLEY: Okay.

BY MR. PENLEY:

Q Was there another area of the polygraph exam that caused concern to the examiner and caused him not to be recommended for removal from No-Fly List?

A Yes. He was also asked if he was a member of al-Nusra.

Q Okay. And was deception indicated in his answer?

A Yes, it was.

Q Okay. Now, after the polygraph exam, was he removed from the No-Fly List by the U.S. Government?

A No, he was not.

Q All right. And is the purpose of the No-Fly List to assure the safety of air travel and aircraft and airline passengers --

A Yes.

Q -- from national security threats?

A Yes, it is.

Q Okay. At the time he was trying to get off the No-Fly List, approximately a year ago, did he make any statements to case agents about where -- why he wanted to fly and where he wanted to go and what he wanted to do?

A He stated that he wanted to return to Syria.
Q Okay. Let's forward in time now to the summer of 2014 -- specifically, July. Last summer, did the FBI seek and obtain a search warrant for Mr. Abood's residence?
A Yes, they did.
Q Okay. And was that search warrant executed at his apartment in Mesquite?
A Yes, it was.
Q Did the FBI seize and search any electronic devices under that search warrant?
A They did. A laptop computer.
Q Okay. On the laptop computer, was any evidence found that indicated Mr. Abood's state of mind about designated terrorist organizations and his leanings toward them and his state of mind about terrorism and violent jihad?
A Yes. Evidence was discovered that he had pledged loyalty to Abu Bakr al-Baghdadi, who --
Q All right. Let me stop you right there.
A Sure.
Q Agent Brown, who is Abu Bakr al-Baghdadi?
A He is the leader of ISIS.
Q All right. And what does it mean, from the FBI's perspective, when someone goes online and pledges loyalty to the leader of ISIS, Abu Bakr al-Baghdadi?
A It means that they pledge to follow and carry out the

orders of Abu Bakr al-Baghdadi and of the ISIS organization.
Q All right. Does ISIS use social media?
A Extensively, yes.
Q Does it use the Internet to communicate with its followers worldwide?
A Yes, it does.
Q What's the most recent call to action or call to orders, if you will, that Abu Bakr al-Baghdadi has allegedly issued via the Internet?
A Yes, on May 14th, Abu Bakr -- of 2015 --
Q So yesterday?
A Yes, sir.
Q And --
A Abu Bakr Baghdadi released a vocal statement, an audio recording, telling his followers and all Muslims to wage war everywhere.
Q Okay. Is that something the FBI has concern about?
A Absolutely.
Q Does the ISIS organization use social media to try to recruit members of its terror organization?
A Yes, they do.
Q Do they use social media and the Internet to issue orders and instructions to mount attacks against the United States and other western nations via the Internet and social media?
A Yes, they do.

Q All right. Have government agencies issued any warnings in the recent months about the threat of ISIS-inspired attacks inside the United States?

A Yes, they have, including the Department of Defense, the Department of Homeland Security, the Transportation Security Administration.

Q All right. Has the FBI Director himself given a speech in recent months with a similar warning?

A Yes, sir.

Q Did you find anything else on the search of his computer that indicated his loyalty towards ISIS or his state of mind about the terror activities of ISIS?

A Yes, we did. We found photographs that, in my training and experience, are propaganda photographs that show violent actions taken out by ISIS.

Q Okay.

THE COURT: Your Honor, at this time we would offer into evidence Government's Exhibit No. 1, and I've given a copy to Mr. Ogan.

MR. OGAN: And we have no objection for the purposes of this hearing.

THE COURT: It's admitted.

(Government's Exhibit 1 is received into evidence.)

MR. PENLEY: And Your Honor, I'll warn the Court, there are graphic images. May we publish that after the Court has a chance to review?

THE COURT: Yes.

MR. PENLEY: May I see Exhibit 1 published, please?

BY MR. PENLEY:

Q Agent Brown, I'll ask you to just give me a brief description of what these images appear to be based on your experience and training as a JTTF agent.

A They appear to be images of propaganda issued by ISIS. They show pictures of dead bodies and violent actions carried out on behalf of the ISIS organization.

Q And what is the flag or the banner in the upper left-hand corner that says created 6/14/2014?

A That is the banner and the flag used by ISIS as -- to represent that organization.

Q Does that same flag appear in the photograph in the bottom left corner?

A Yes, it does.

Q All right. What do the images on the second page of slides appear to show? Are these similar activities by ISIS?

A Yes, sir. The bottom left looks like an execution that is about to take place.

Q All right. And does the ISIS flag appear in three of those photographs at least?

A It does, yes.

Q All right. Does the ISIS flag appear in these two

photographs?
A Yes, it does.
Q And does this appear to be pictures of bodies from the fighting in the Middle East?
A Yes, it does.
Q Do these appear to be more executions?
A They do.
Q All right. And these are graphic images. Let me go back one -- let me ask you one question. Does ISIS fight with Shiite Muslims in Syria and other parts of the Middle East?
A Yes, they do.
Q All right. I want you to look at the Arabic script here.
A Yes, sir.
Q You have some familiarity with Arabic. I'm not asking you to testify as an expert, but have you consulted with an FBI Arabic translator before coming to court today about the script in the second picture on the left?
A I have.
Q In general, what does that script communicate?
A In general, it says that the image depicted is the destiny of Shiites at the hands of the ISIS organization.
Q Okay.
MR. PENLEY: Next slide, please.
BY MR. PENLEY:
Q All right. Does the ISIS flag appear in these photographs

as well?
A Yes, sir.
Q And do you have some idea of what this book cover is? Do you have any understanding whether this is affiliated with ISIS as propaganda in the bottom right corner of these pictures?
A You know, I --
Q Do you know --
A No, I can't. I can't be sure about that.
Q Okay. This is a beheading, is it not?
A It appears to be so, yes.
Q All right. And that's the end of Exhibit 1.

MR. PENLEY: Next, Your Honor, I'd like to offer in Exhibit 2.

BY MR. PENLEY:

Q Agent Brown, have you seen Exhibit 2 displayed before coming to court?
A Yes, I have.
Q And what do you understand it to be? What does it purport to be?
A Again, in conversations with an FBI translator, it appears to be a chant that supports ISIS.
Q Okay.

MR. OGAN: I don't have any objection if it's being offered. Are you offering it?

MR. PENLEY: Yes. We offer it, Your Honor. We offer

Exhibit 2.

THE COURT: It's admitted.

(Government's Exhibit 2 is received into evidence.)

MR. PENLEY: Play Exhibit 2.

(Recording played, 9:53 a.m. to 9:54 a.m.)

MR. PENLEY: All right. I'm going to stop it right there.

BY MR. PENLEY:

Q Agent Brown, do you understand that to be a chant that's either pro-ISIS or anti-ISIS?

A Pro-ISIS.

Q All right. And at the end there, was that a battle cry that ISIS uses?

A I'm not sure if it was a battle cry that ISIS uses.

Q Okay.

A In general, the chant is pro-ISIS.

Q Okay. All right.

MR. PENLEY: And next, Your Honor, we'd offer Government's Exhibit 3.

BY MR. PENLEY:

Q Agent, did you see Government's Exhibit 3 before coming to court?

A I did, yes.

Q And that's in Arabic?

A Yes.

Q Did you have a chance to visit with the FBI Arabic translator while you watched the video that's in Exhibit 3?
A I did.
Q And would you be able to answer questions about your understanding of the nature of what's in this video?
A Yes, sir.
Q And what's the general nature of the message communicated by Exhibit 3?
A It's -- my understanding is that it's a song that supports the mothers of dead, violent jihadists and martyrs.
Q Okay. So it's offering comfort to mothers of fighters who have died as martyrs in violent jihad; is that accurate?
A Yes, sir.
Q Okay.

MR. PENLEY: We offer Exhibit 3, Your Honor.

MR. OGAN: No objection.

THE COURT: It's admitted.

(Government's Exhibit 3 is received into evidence.)

MR. PENLEY: May we publish, Your Honor?

THE COURT: Yes.

MR. PENLEY: Play Exhibit 3.

(Video recording played, 9:56 a.m. to 9:57 a.m.)

MR. OGAN: Your Honor, if we could --

THE COURT: Stop it for a second. Do you need to stop it for a second?

MR. OGAN: Yes, if we could.

THE COURT: Okay.

MR. OGAN: We don't have any basis to disagree with the agent's classification of what this is, but I don't think that it serves any purpose to go forward with it if none of us can understand it.

MR. PENLEY: Your Honor, that's -- I'll stop the playing here.

BY MR. PENLEY:

Q Agent Brown, let me ask you this. Did you or other FBI agents find evidence that Mr. Abood forwarded this video and perhaps others from his computer to other people?

A Yes.

Q Okay. In your experience as a JTTF agent working on terrorism investigations, is the message in this video and Exhibit 2 something that could be used to recruit other people to the ISIS cause?

A Yes, it is.

Q Is it something that could be used to build support for ISIS within the United States?

A Yes, it is.

Q Is that something that Mr. Abood had the ability to do, sitting at his laptop computer in his apartment, --

A Yes, sir.

Q -- just working via the Internet?

A Yes, sir.
Q Okay. Now, let me step forward in time to last month, April 14, 2015. Did FBI agents again have occasion to interview Mr. Abood?
A Yes, they did.
Q And did that interview occur at his apartment in Mesquite?
A Yes, it did.
Q And when they interviewed him, did they -- was one of their purposes to determine whether he posed a threat to the American public?
A Yes, sir.
Q And whether he was someone who was likely to engage in a terrorist act inside the United States?
A Yes, sir.
Q Okay. Did they tell him that? Did they tell him they were involved in a terrorism investigation?
A Yes, they did.
Q Did they tell him he had to tell the truth?
A Yes, they did.
Q Did they assure them whether he would tell the truth?
A He did.
Q Did they ask him point blank if he had ever pled allegiance to the leader of ISIS, Abu Bakr al-Baghdadi?
A They did, and he responded that he had not.
Q Okay. And let me ask the question a slightly different way

just to be clear. Whether they said ISIS or not, did they say, Have you ever pledged allegiance to Abu Bakr al-Baghdadi?
A Yes.
Q And did he deny that?
A He denied it.
Q Okay. Was that a truthful answer?
A No, it was not.
Q And that's based on what evidence?
A Based on the evidence that we gathered during the search warrant of his laptop computer.
Q Okay. Now, was his false statement material to the FBI, which was engaged in a counterterrorism investigation?
A It was.
Q Why was it material? Why was it important or significant?
A Well, it's important because, like you said, we are engaged in a national terrorism -- or excuse me, a national security investigation into terrorism. His not telling the truth impeded our ability to understand and mitigate the threat posed by terrorism and ISIS.
Q All right. And this was a month ago. Was this within the timeframe where warnings had been issued by United States government, law enforcement agencies, and intelligence agencies that ISIS was trying to use the Internet to communicate with its followers and adherents in the United States to rise up and engage in acts of terror?

A Yes, it was.
Q When you go and you talk to someone, particularly in a counterterror investigation, and you tell them it's important they tell you the truth and they lie to you, does that inhibit your ability to get at the facts and to understand whether someone poses a risk of harm or not?
A Yes, it does.
Q Okay. Was he told specifically that it's a crime to lie to a law enforcement agent of the United States Government during an official investigation?
A Yes, he was.
Q And he still lied?
A Yes, sir.
Q In the last six months, has ISIS continued to engage in terrorism?
A Yes, it has.
Q Have there been some well-publicized acts of terror that have gone around worldwide media?
A Yes, sir. There are beheadings, setting people on fire. You know, --
Q And are you referring to the Jordanian pilot who was --
A Yes.
Q -- shot down in Syria and was set on fire in a cage by ISIS?
A Yes, sir, I am.

Q And did ISIS take full credit for that barbaric act?
A Yes, they did, and they published a well-produced video of that event.
Q And did ISIS adherents in Libya march a number of Christian men out on a beach and behead them?
A I'm not familiar with that specific incident.
Q Okay. And have they organized other public attacks and attacks on public events in the Middle East?
A Yes, they have.
Q Okay.
MR. PENLEY: May I have just a moment, Your Honor?
THE COURT: Yes.
(Pause.)
BY MR. PENLEY:
Q All right. Let me ask you this. When I showed you the photographs that came off the computer in Exhibit 1, --
A Yes, sir.
Q -- we talked about him pledging loyalty to Abu Bakr al-Baghdadi?
A Yes, sir.
Q From looking at the date these images were viewed on his computer, could you tell whether he had looked at photographs of executions and beheadings before he pledged loyalty to the leader of ISIS?
A I don't recall the specific date.

Q Okay. Did you find evidence on his computer that other people read his pledge of loyalty on the Internet to the leader of ISIS, Abu Bakr al-Baghdadi?
A Please rephrase that.
Q Yes. Did you find evidence or have you seen evidence that Mr. Abood tweeted out his pledge of loyalty to Abu Bakr al-Baghdadi?
A Oh, yes. Yes.
Q And was that tweet picked up by others and re-tweeted?
A Yes, it was.
Q Okay. Now, let me ask you this. When Mr. Abood contacted the FBI in early 2014 and said that he wanted to get off the No-Fly List and he agreed to take a polygraph exam, --
A Yes.
Q -- did he tell the FBI where he wanted to go and what he wanted to do if he could fly again?
A Yeah. I think he said he wanted to go visit a girlfriend. I believe it was in Philadelphia, but I'm not sure about the location, but the purpose was to go visit a girlfriend.
Q All right. And did the FBI actually find out at that time or later that his actual desire was to go back to Syria --
A Yes, sir.
Q -- and rejoin the fighting in Syria with a terrorist organization?
A Yes, sir, and to fight violent jihad and die as a martyr.

Q Okay. All right. In fact, let me talk to you about that. I want to talk to you about the subject of flight risk.
A Yes, sir.
Q Does Mr. Abood have a job here in the Dallas area?
A Not to my knowledge, he does not.
Q All right. Is he unemployed?
A Yes, sir.
Q And do you know approximately how long he's been unemployed?
A I believe he's approximately two years unemployed.
Q Okay. Does he own any property in this area that you're aware of?
A No.
Q Does he have any family in the area, to your knowledge?
A No.
Q To your knowledge, where does his family live?
A He has family in Iraq.
Q Okay. If the Court were to release him on bond and set conditions for a bond, do you have any confidence that he could be trusted to obey the Court's orders?
A No, I do not. In the past, he has circumvented warnings by the FBI not to travel specifically to Syria and to fight, so he's shown a propensity and an ability to flee the United States and to travel abroad.
Q Is he a native of Iraq?

A He is, yes.
Q As a native of Iraq, if he were to flee the United States and go to Mexico, for example, would he have the potential to go to an Iraqi consulate and obtain a new Iraqi passport to travel internationally?
A I believe he could. He could also obtain false travel documents.
Q Okay. And do you have an opinion as to whether he poses a danger to the community if he were to be released on pre-trial bond?
A I do. He has expressed a desire to travel back to Syria and to fight jihad there and to die as a martyr. Additionally, I believe that he's a threat just sitting in his apartment through his ability to, you know, through online communications influence and propagate the ISIS ideology and ISIS messaging, therefore helping to recruit other people to ISIS and to encourage violent actions. I also believe he could be a danger in the local area as well. I mean, he's had military training.
Q All right. Let me stop you right there, Agent. What kind of military training does Mr. Abood have?
A Army. Army basic training.
Q The United States Army?
A Yes, sir.
Q All right. Did he enlist in the U.S. Army?
A I believe he went to Army basic training and --

Q Okay. Did he complete that?
A I believe he did.
Q All right. At U.S. Army basic training, would he have received training in small arms like automatic weapons and machine guns?
A I don't know the extent of Army's basic training. I do know he would have received small arms training there, so -- but I -- your question was about automatic weapons. I don't know about that.
Q Okay.
A But he would have received weapons training in Army basic training.
Q He would get the basic Army infantry training; is that your understanding?
A Yes, sir.
Q And he would learn hand-to-hand combat?
A Yes, sir.
Q And military communications?
A Yes, sir.
Q And small unit tactics?
A Yes, sir.
Q What was his job in the private sector when he last had a job?
A He was a security guard.
Q All right. So if somebody was an adherent of ISIS and

disposed to engage in terrorist activity inside the U.S., would having U.S. Army basic training and some experience as a private security guard be of assistance to them if they were to decide to carry out an act of terror in the U.S.?

A Absolutely. The tactics he would have learned in the Army would help him carry out the attack, and the knowledge that you have as a security guard to bypass security procedures and protocols and have access to sensitive targets would aid in such an attack.

Q In the search of his computer, did the FBI find any statements by Mr. Abood as to his state of mind and his feelings toward the United States of America and specifically the U.S. Government?

A Yes. There was a statement that said the United States is an enemy of God.

Q Okay. Do you think, if the Court were to release him on a pre-trial bond, that he would have respect for this Court or any court in the United States, based on the evidence you've seen from his computer?

A No, sir.

MR. PENLEY: May I have just a moment, Your Honor?

THE COURT: Yes.

(Pause.)

BY MR. PENLEY:

Q Agent, let me just correct one thing. I asked you that last question about his feelings toward the U.S. Government and I said evidence from his computer. Let me rephrase that question and take out the computer part. Are you familiar with evidence from some source besides his computer, such as a witness, that he's expressed feelings toward the U.S. Government?

A Yes, sir. That was the statement, that the United States was an enemy of God.

Q Okay.

MR. PENLEY: Your Honor, I'll pass the witness.

THE COURT: Mr. Ogan?

CROSS-EXAMINATION

BY MR. OGAN:

Q Sir, you've indicated your concern that if he was released Mr. Abood might engage in some sort of violent acts here in the U.S.?

A Yes, sir.

Q But you don't know of any such acts that he's actually engaged in?

A No, sir.

Q And the evidence, for instance, in Government's 1, the evidence of the beheadings and the ISIS flags, that sort of thing, that stuff would be available to anyone if they knew where to look on the Internet, correct?

A It would.

Q For instance, you can get ***Al Jazeera News*** as part of a cable TV package in Dallas. Are you aware of that?
A Yes. The difference is that Mr. Abood has sworn an oath to Abu Bakr al-Baghdadi, the leader of ISIS.
Q I understand that's your position, but I'm just saying that the information that's been introduced against him here, anybody could get off of the Internet?
A I can't speak to those specific images and where those specific images could be, --
Q Okay.
A -- you know, downloaded from the Internet.
Q And there was indication that he had told the FBI two different stories. First, he had said that he was wanting to go to Iraq, and then -- this was in 3 of '13 -- then that he wanted to go to Syria?
A That's correct.
Q But actually what he told you is he wanted to Iraq was his first story, and his second, that he wanted to go to Iraq and then into Syria, right?
A I'm not aware of that.
Q Can you fly directly into Damascus these days from the U.S.?
A I don't know.
Q Okay. But could fly into Iraq?
A Could he fly into Iraq at that time?

Q Uh-huh. Yes.
A I don't know for sure, honestly.
Q Okay. You know he has dual citizenship, correct, Iraqi and U.S.?
A Yes, sir.
Q And the initial testimony was, when he was interviewed the second time by the FBI, that he said he wanted to go to Iraq to fight President Asaad?
A No, I never said he went to Iraq to fight President Asaad.
Q To fight Asaad's forces?
A Excuse me. Can you please rephrase that?
Q My notes said that he said he wanted to go to Iraq to fight with the forces against the -- Asaad, against President Asaad.
A Well, President Asaad is not the president of Iraq.
Q I mean, Syria, I'm sorry.
A He has made statements that he wanted to travel to Syria to fight against President Asaad.
Q Okay. That's what I meant to say, Syria to fight against Asaad's forces?
A Yes, sir.
Q And Asaad is no friend to the United States?
A I don't know who President Asaad is a friend of.
Q Okay. Are you aware that we are -- they're openly discussing arming the forces who are fighting President Asaad, that that's very much an issue in U.S. politics these days?

A Yes, I'm aware of that.
Q And so he would be saying, I want to go to Syria to fight with the people who are fighting Asaad, right?
A Mr. Abood said he wanted to go to Syria to fight Asaad and that he went to an al-Nusra safe house. Al-Nusra is a designated foreign terrorist organization.
Q I understand. But if he was going to Syria and his intention was to fight President Asaad, that wouldn't necessarily be against U.S. interests, right?
A Joining a foreign terrorist organization is against U.S. interests.
Q If he's an Iraqi, can he go to Syria without violating Iraqi law?
A I'm not familiar with Iraqi law, sir.
Q Okay. And then in 2014 he came in, he tried to get off of the No-Fly Zone, and that was unsuccessful, correct?
A Yes, sir.
Q And did he go back after that?
A Go back where?
Q Did he go back overseas? Did he go back to Iraq or Syria or --
A No, sir, not to my knowledge.
Q Not to your knowledge? And his computers, after his computers were seized, about when was that?
A That was -- I believe it was in July of 2014. It was the

search warrant that we executed.
Q Okay. And then -- so, basically a year ago, a year minus a month?
A Approximately.
Q And then he was interviewed one last time on -- in -- this month, before he was arrested, correct?
A I believe it was in April of 2015.
Q Okay. And it sounds like that he submitted to a number of interviews. He didn't refuse to talk to you all when you asked him questions; is that correct?
A He was interviewed by the FBI numerous times.
Q Okay. And you're aware that when he was living in Iraq previously during the Iraqi war that he had served as an interpreter for the U.S. military?
A Yes, sir.
Q And that one of the rewards that some of those interpreters received for assisting us in that effort was they were allowed to emigrate to the U.S. and get U.S. citizenship?
A Are you asking me if that was offered to Mr. Abood or if that is something that's generally offered or has been offered?
Q If it's generally offered.
A I believe it is.
Q And he ended up emigrating here and getting U.S. citizenship after serving as an interpreter over there, right?
A Yes.

Q So, let me ask you if this is possible. Is it possible that the lies he told were lies when he was making these postings on the Internet, trying to make himself look more important than he was, boasting about his position, but that when you asked him face-to-face as a federal agent, have you declared your loyalty to this leader of ISIS, and he said no, that could have been the truth?

A I'm sorry. Can you rephrase that?

Q Okay. Could it be that the lies were him playing around on the Internet, but when it came right down to it and he was interviewed by you all, he said, no, I'm not a follower of this guy, that could have been the truthful statement?

A What I know is that when he lied to us he impeded our ability to conduct a national security investigation into terrorism.

Q Okay.

MR. OGAN: Nothing further, Your Honor.

THE COURT: Does the Government have any redirect?

MR. PENLEY: Just briefly, Your Honor. Your Honor, may I approach the witness?

THE COURT: You may.

REDIRECT EXAMINATION

BY MR. PENLEY:

Q Agent, I'm going to show you the complaint, Page 4. And in the bottom paragraph on Page 4 of the complaint it states that

a review of Mr. Abood's computer revealed Abood pledged an oath to Abu Bakr al-Baghdadi, the leader of ISIL, --
A Yes.
Q -- and do you understand ISIL to be another term for ISIS?
A Yes, it is.
Q On what date?
A It's June 19, 2014.
Q Okay. And so almost a year later the FBI goes to his door and asks him, have you ever pledged loyalty to Abu Bakr al-Baghdadi, which you told us earlier means someone is pledging to obey the orders of the leader of the so-called Caliphate of ISIS?
A Yes.
Q So he had pledged that oath, and based on the FBI's computer of his computer, had he ever withdrawn that oath of loyalty to the leader of ISIS?
A I'm not aware of him ever withdrawing any oath to Abu Bakr al-Baghdadi.
Q Okay. And are you aware of any evidence that he had ever renounced his affinity for ISIS or the barbaric acts they're committing the around the world?
A No, sir.
MR. PENLEY: Pass the witness, Your Honor.
THE COURT: Any recross?
MR. OGAN: Just one more question.

RECROSS-EXAMINATION

BY MR. OGAN:

Q Other than the Defendant's statements, do you have any other evidence that he joined and actively participated in any terrorist organization, or that he even went to Syria? Do you have any independent evidence that corroborates that?

A I'm not aware of any.

Q Thank you.

THE COURT: Sir, you can step down.

THE WITNESS: Thank you, ma'am.

(The witness steps down.)

MR. PENLEY: Your Honor, we rest.

Well, Your Honor, I would proffer the contents of the Pre-Trial Services report, particularly on flight risk and danger to the community, and ask the Court to take notice of the information there. And that concludes our evidence, Your Honor. Thank you.

THE COURT: Mr. Ogan?

MR. OGAN: Your Honor, I would proceed by proffer.

PROFFER OF TESTIMONY OF "BARBARA" ON BEHALF OF DEFENDANT

MR. OGAN: I spoke with the Defendant's girlfriend or female companion. Her name is Barbara. They live in Mesquite. I can provide the names and addresses to the Court.

She told me yesterday that she had recently undergone surgery at a hospital here in town, but -- and was not able to be here today, but that she has been with him since at least 2010. That they live together. If released, he would definitely show up for court. That he is not a person to run away from his responsibilities. And she trusts him with her newborn granddaughter, and has done so on many occasions. In her opinion, he is not a dangerous person.

I would proffer that.

And I think the rest of what I was going to proffer is in the Pre-Trial Services report.

And with that, we would rest.

THE COURT: Does the Government wish to make an argument?

MR. PENLEY: Yes, Your Honor, briefly.

Your Honor, I believe that the testimony and the evidence presented today by the Government shows that Mr. Abood is indeed a flight risk. He's been warned by the FBI not to go to Syria. In 2013, he went anyway by sneaking out through Mexico. He went to Syria, and the Government has evidence that he joined up with a designated terrorist organization there for a period of time that was involved in the fighting in that country. That he came back. That when he FBI searched his computer pursuant to a search warrant last summer, the FBI did find evidence that had pledged loyalty to Abu Bakr al-Baghdadi. And when confronted by the FBI in April of this year, on April 15th -- or I'm sorry, April 14, 2015 -- he flat-out denied it, even though he was previously warned by the FBI that it's a felony offense to lie to government law enforcement agents during the course of an investigation.

So we assert there's probable cause existing to support the charge in the complaint under 18 U.S.C. Section 1001.

And Your Honor, as for flight risk and danger to the community, the evidence shows that he cannot be trusted to obey this Court's orders, no matter how many restrictions the Court might see fit to put on him. He has left the country before. And he has no substantial ties to the community. He's been unemployed for over two years. Owns no property here. Has no family here. His family is in Iraq.

Your Honor, as far as danger to the community goes, I think the evidence is abundant that he is a tremendous potential danger to this community. By pledging loyalty to the leader of ISIS, he has sworn to obey the orders of Abu Bakr al-Baghdadi. And orders come out over the Internet all the time to ISIS followers. And in recent months, according to the agent's testimony, there have been warnings from the FBI, Department of Homeland Security, the Department of Defense. Your Honor, there have been warnings from the head of the NSA about the same thing, about Internet activity by ISIS trying to rouse their supporters to make attacks in the West, particularly inside the United States.

Your Honor, given Mr. Abood's background, given the fact that he's been through the United States Army's basic training, he's had training in marksmanship and handling of small weapons, small unit tactics, he's worked as a security guard, and he has sat online on his computer and forwarded pro-violent jihad videos and photographs to other people, he has disseminated ISIS propaganda, he has expressed his hatred of the United States, Your Honor, I submit that he is indeed a danger to the community. He is not someone that can be trusted, particularly since he now knows he's facing criminal charges. And given his foreign ties, given his ability to perhaps go to another country and get an Iraqi passport or by forged travel papers, I think there's a significant risk he could flee and/or pose a risk to the U.S. public while he's here if he were on pre-trial release.

Thank you, Your Honor. We ask that the Court find probable cause and detain him until trial.

THE COURT: Thank you. Mr. Ogan?

MR. OGAN: Your Honor, there's quite a bit of Internet chatter, talk, that has been mentioned here. As far as I can tell, for an Iraqi to go to Syria to see what is going on there, see if what he has heard about the goings on there is true, would be about like us going to Oklahoma to look at tornado damage. I haven't seen anything saying it was illegal for him to go there. I know they're interested in him going there, but they haven't shown anything saying it was illegal for him to go there either as a U.S. citizen or as an Iraqi. He doesn't have any prior convictions. He worked for the U.S. military on several occasions. Apparently did well enough that he was rewarded with an opportunity to come here and get United States citizenship. He volunteered for the U.S. Army. We don't know what happened that he didn't complete his tour with the Army, but I don't think that a person serving in the U.S. military, I don't think that's evidence of danger or flight risk because of what he learns volunteering to serve this country.

Also, I think that the mere possibility that a person could commit violent acts if he was released does not substitute for proof of that. They have raised the possibility that it could happen, but that's not proof, and I don't think they have met their burden here of clear and convincing evidence of danger to the community.

THE COURT: Well, but I'm just saying, isn't the standard of danger to the community or another premised on what may happen in the future?

MR. OGAN: It is.

THE COURT: Okay.

MR. OGAN: But just saying it's possible that if he goes out and does -- that he could do something is different than saying --

THE COURT: So you're basically saying they have not met the standard of clear and convincing evidence?

MR. OGAN: That's what I'm saying, --

THE COURT: Okay.

MR. OGAN: -- that they haven't said, we have actual violent acts on the part of this guy. We have something besides talk. That, I don't think they have brought.

THE COURT: Thank you.

Mr. Abood, I do find probable cause to believe that you committed the offense alleged in the criminal complaint -- that is, making a materially false statement or representation in a matter within the jurisdiction of the Federal Bureau of Investigation.

Sir, I also find by a preponderance of the evidence that there is no condition or combination of conditions I could impose which would reasonably assure your appearance as required in court, and I find by clear and convincing evidence that there is no condition or combination of conditions I could impose that would reasonably assure the safety of the community or another person.

Sir, my findings are based primarily upon the evidence that, first of all, as to risk of flight, that you lack serious ties to this community. Based on the evidence I've heard here, but more importantly your interview with the Pre-Trial Services officer, it appears that your serious family ties, your close family ties, are with people who are in Iraq. And of course, you, as I heard here, hold a dual citizenship with the U.S. and Iraq.

The fact that you have no job, you've been here long enough to have a job, and just basically your living situation here, gives me concern that you have no reason to stay. And since you have a history of finding ingenious ways to leave when you want to, even when you've been advised not to, and to go exactly where you want to, that gives me concern as well.

As far as danger to the community, I understand your attorney's argument that your statement could have merely been boasting. I could see that argument if it hadn't been followed up with actually leaving this country and, by your own admission, affiliating with a foreign terrorist organization, after you had been advised not to go there by the FBI. It's hard to consider it a joke, the statement I heard regarding the witness's statement to the FBI that you stated that the U.S. is the enemy of God, in conjunction with the tweet regarding your allegiance to an identified leader of ISIS or ISIL. You know, you make a statement like that, I believe you're making it with the intention that it influence others or be communicated to others. You make a statement like that, whether you intend it or not, I believe you're communicating to someone like that that you are available and able to carry out what I heard in the testimony just yesterday was a message to wage war everywhere.

On that evidence, I do have to grant the Government's motion, I believe, and order that you be detained. And so that's the order of the Court, a finding of probable cause as well as the order that you be detained. And so at this time, sir, you are remanded to the custody of the U.S. Marshal. Good luck to you. And we are adjourned.

THE CLERK: All rise.

(Proceedings concluded at 10:30 a.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript from the digital sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling **06/25/2015**

______________________________________ ________________

Kathy Rehling, CET**D-444 Date
Certified Electronic Court Transcriber

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